

GOAL 1- CORE MISSION:

Deliver real results to provide Americans with clean air, land, and water.

OBJECTIVE 1.1-IMPROVE AIR QUALITY:

Work with states to accurately measure air quality and ensure that more Americans are living and working in areas that meet high air quality standards.

**2015 Ozone Standard Designations**

On November 6, 2017, EPA designated much of the country as ‘attainment/unclassifiable.’ In Region 6, Arkansas and Quapaw Tribe of Indians (Oklahoma) were designated without any exceptions as attainment/unclassifiable for the 2015 ozone standard. A few areas associated with violating monitors were not addressed in the November 6 action. These areas will be addressed in a separate future action.

For these areas, the States made the following recommendations: Louisiana recommended the five-parish Baton Rouge area as nonattainment; New Mexico recommended a portion of Southern Doña Ana County as nonattainment; and Texas recommended eight counties in the Houston area, 11 counties in the Dallas/Fort Worth area, and Bexar County in the San Antonio area as nonattainment. Texas recently changed its recommendation from nonattainment to attainment for El Paso County.

In the November 6, 2017 action, EPA designated about 90 percent of the country as meeting the 2015 ground-level ozone standards consistent with the states’ and tribes’ recommendations. EPA found that most areas of the country -- 2,646 of the more than 3,100 counties in the United States -- meet the standards for ground-level ozone. These areas do not have any increased compliance burdens.

In the spirit of cooperative federalism, EPA will continue to work with states and the public to help areas with underlying technical issues, disputed designations, and/or insufficient information. Additionally, EPA modeling, information provided by state agencies, and peer-reviewed science indicate international emissions and background ozone can contribute significantly to an areas ability to meet attainment thresholds, like Dona Ana County, NM and El Paso County, TX. The agency intends to address these areas in a separate future action. For the remaining areas, EPA is not extending the time provided under section 107 of the Clean Air Act.

**1-hour Sulfur Dioxide Designations**

EPA is under a court order to issue final area designations for round 3 sources under the 2010 Primary National Ambient Air Quality Standard for sulfur dioxide (SO<sub>2</sub>) by December 31, 2017. Round 3 sources are those where states chose to use modeling to characterize air quality in the vicinity of sources with emissions greater than 2000 tons/year. The Agency is responding to state, territorial, and tribal recommendations for the third round of area designations by indicating anticipated area designations.

On August 22, 2017, EPA Regional Administrators sent letters to Governors and Tribal leaders informing them of our intended area designations for the 2010 Primary National Ambient Air Quality Standard for sulfur dioxide. Ten areas were identified that may be violating the 2010 sulfur dioxide standard in the third round of designation. Evangeline Parish, Louisiana was included. These letters start a 120-day period during which states, territories, and the tribes are invited to provide additional information by October 23, 2017, before final designations occur.

EPA revised the primary sulfur dioxide National Ambient Air Quality Standard by establishing a new 1-hour standard at a level of 75 parts per billion on June 2, 2010. The promulgation of a new or revised National Ambient Air Quality Standard triggers the designations process. Areas surrounding 13 emission sources in Arkansas, Louisiana, Oklahoma, New Mexico, and Texas must be designated by December 31, 2017. EPA received modeling from the states for the areas surrounding nine of the sources. Louisiana did not submit modeling for three sources in St. Mary Parish. One source located in Louisiana took federally enforceable sulfur dioxide emission limits, but did not submit modeling analyses.

#### **PM10 Exceptional Event Demonstration from City of Albuquerque**

The City of Albuquerque is scheduled to submit documentation by December 18, 2017, to support an exceptional event demonstration for five exceedances at two air particulate monitors for EPA approval. The city believes the occurrences were caused by high wind events in the area.

Under federal law, EPA may be requested to exclude data which is the result of an exceptional event from use in regulatory determinations concerning area attainment. In order to attain the National Ambient Air Quality Standard for particulate matter with diameters that are generally 10 micrometers or smaller (PM10), an air quality monitor cannot measure levels of PM10 greater than 150 micrograms per cubic meter (ug/m3) more than once per year on average over a consecutive three-year period.

The New Mexico Environment Department has authority over air quality in all areas of New Mexico except for Bernalillo County and Tribal Lands. The City of Albuquerque/Bernalillo Air Quality Control Board regulates businesses located in Bernalillo County, and EPA regulates air quality issues on Tribal Lands. The city of Albuquerque operates four PM10 monitors at three sites.

#### **8-hour Ozone Exceptional Event Request for El Paso, Texas**

Texas has requested EPA make a final decision on the documentation to support an exceptional event demonstration for an exceedance at an air quality monitor in El Paso before the remaining 2015 ozone designations are made.

On September 27, 2016, the Texas Commission on Environmental Quality submitted documentation to support an exceptional event exceedance demonstration. The states' exceptional events demonstration package cites wildfires in Arizona as cause of the exceptional event. The state requested EPA's concurrence that an exceedance of the air quality 8-hour ozone concentration value on June 21, 2015, at the University of Texas at El Paso monitor was due to wildfires in Arizona.

Under federal law, EPA allows for high concentrations associated with exceptional events, such as wildfires, to be set aside and not used in design value calculations or for attainment determinations. In order to attain the National Ambient Air Quality Standard for ozone, the average of fourth high value measured at an air quality monitor each year for three years cannot be greater than 70 parts per billion (ppb).

EPA relies on three years of certified air monitoring data to support its designation decision. Currently, attainment designations are based on 2014 – 2016 air monitoring data. El Paso would measure attainment with the ozone standard if the exceptional event is approved. Nearby monitors in Sunland Park, New Mexico, however, would still be in violation of the National Ambient Air Quality Standard.

78

79 On November 6, 2017, EPA designated about 90 percent of the country for meeting the 2015 ground-  
80 level ozone standards consistent with the states' and tribes' recommendations. The remaining areas, to  
81 include El Paso County, will be addressed in a separate future action. The exceptional event decision for  
82 El Paso may impact the final 2015 ozone designations for this area.

83 **Texas BART Federal Implementation Plan**

84 EPA and the State of Texas formalized a memorandum of agreement to reduce red tape so the state can  
85 submit a state implementation plan early next year, which, if approved by EPA, would replace, the  
86 Federal Implementation Plan. However, the State is awaiting a decision by the Governor on whether it  
87 will proceed with its Trading Program plan.

88 On September 9, 2017, EPA partially approved the Texas Clean-air Plan for Regional Haze and Interstate  
89 Visibility Transport and finalized a Federal Implementation Plan for a best available retrofit technology  
90 alternative that includes an intrastate trading program for sulfur dioxide. The Federal Implementation  
91 Plan implements a cap on emissions from eight owner-operated power plants.

92 The EPA was under two court orders on Texas Regional Haze and Interstate Visibility Transport to take  
93 final actions by no later than September 30, 2017. Parties were unable to agree to additional time  
94 needed for Texas to submit a State Implementation Plan and complete public notice and public  
95 participation before the deadline. EPA and Texas' joint attempt for an extension with the court was  
96 unsuccessful. The federal plan will provide additional flexibility and allowances to sources in Texas.

97 EPA approved Texas' determination that its electric generating units are not subject to best available  
98 retrofit technology for particulate matter, and finalized its proposed finding that nitrogen oxide (NOx)  
99 best available retrofit technology is met by participation in the Cross-State Air Pollution Rule, as  
100 updated. To address the sulfur dioxide best available retrofit technology requirements for electric-  
101 generating units in Texas, this action establishes intrastate trading program provisions. Trading program  
102 provisions include a Supplemental Allowance pool to provide additional flexibility and allowances to  
103 sources unable to remain below their allocation level. The trading program includes provisions for  
104 additional sources to opt-in.

105

106 **Arkansas Regional Haze Federal Implementation Plan**

107 EPA anticipates the State of Arkansas' formal submission of a Regional Haze State Implementation Plan  
108 by year end. EPA is working with the State of Arkansas to establish an agreeable process and milestones  
109 to replace EPA's Federal Implementation Plan with an approvable State Implementation Plan by mid-July  
110 2018.

111 On October 31, 2017, the Arkansas Department of Environmental Quality proposed revisions to the  
112 State's Regional Haze SIP for public notice in Arkansas. The proposed revisions included Best Available  
113 Retrofit Technology eligible sources and subject-to-BART sources, particulate matter and sulfur dioxide  
114 requirements for Arkansas power plants, compliance dates, reasonable progress goals, and long-term  
115 strategy. The Arkansas Department of Environmental Quality will hold a public hearing on Tuesday,  
116 January 2, 2018 and will accept written and electronic comments.

On August 31, 2016, EPA promulgated a final Federal Implementation Plan that established sulfur dioxide, nitrogen oxide, and particulate matter emission limits for 11 units at seven facilities in Arkansas under the Regional Haze Rule. The Federal Implementation Plan was promulgated to correct certain portions of the Arkansas Regional Haze State Implementation Plan, which EPA partially disapproved in an action finalized on March 12, 2012.

In November 2016, EPA received petitions for reconsideration from the State of Arkansas as well as four industry parties. Five parties also filed petitions for judicial review of certain parts of the Federal Implementation Plan. The case has been held in abeyance since March 2017. The State of Arkansas and other parties to the litigation have expressed interest in settlement discussions/negotiations. To facilitate settlement discussions, EPA sent letters to the petitioners communicating our intent to grant a 90-day administrative stay and partial reconsideration of (1) the SO<sub>2</sub> controls for the White Bluff Power Plant, (2) the form and compliance date of NO<sub>x</sub> controls for White Bluff Power Plant, Independence Power Plant, and Flint Creek Power Plant, and (3) reconsideration of the compliance date for SO<sub>2</sub> controls for the Independence Power Plant. Settlement discussions with the State and other petitioners have not been fully successful.

EPA and DOJ are continuing settlement discussions with the State and other petitioners while parallel processing the State Implementation Plan.

#### **Louisiana Regional Haze**

On June 7, 2012, EPA finalized a limited disapproval of the Louisiana regional haze State Implementation Plan because of deficiencies in its best available retrofit technology (BART) requirements for Electrical Generating Units and other issues arising from the remand of the Clean Air Interstate Rule (CAIR). In a separate rulemaking, we issued a partial limited approval/partial disapproval noting no consideration of BART for non-Electrical Generating Unit facilities. Louisiana was required to revise their State Implementation Plan to address these deficiencies. Under a Consent Decree (CD), EPA is required to take final approval action on the revised SIP or issue a Federal Implementation Plan by December 15, 2017.

On August 11, 2016, Louisiana submitted a State Implementation Plan revision to address the non-Electrical Generating Unit facilities. We proposed to approve that State Implementation Plan on October 27, 2016 and received no adverse comments. On February 10, 2017, Louisiana submitted a final SIP revision to address regional haze requirements for BART-eligible Electrical Generating Unit facilities. We proposed to approve that submittal on May 19, 2017.

On June 20, 2017, Louisiana submitted a supplement to their February 10, 2017 State Implementation Plan, to address BART for one Electrical Generating Unit: Entergy Nelson. We proposed to approve that State Implementation Plan on July 13, 2017. On September 26, 2017, at the request of the State, we further amended that proposal to approve a compliance date three years from the effective date of the final EPA approval of the State Implementation Plan revision for Nelson to meet an emission limit for sulfur dioxide (SO<sub>2</sub>) emissions.

While we did not receive adverse comments on the non-Electrical Generating Unit proposed approval, we received adverse comments on all three of the Electrical Generating Unit related notices of proposed rulemaking particularly on the level of control (low sulfur coal) chosen by Louisiana for the Nelson unit.

We are moving forward to respond to comments and finalize our proposed approvals in advance of our consent decree deadline of December 15, 2017.

#### **Region 6 State Implementation Plan Management**

Region 6, like other Regions, has a backlog of State Implementation Plans overdue (when final action is not taken within 18 months of receipt) for approval/disapproval action.

In order to eliminate the State Implementation Plan backlog and act on new State Implementation Plans within Clean Air Act timeframes, Region 6 has an aggressive management strategy which includes: working with states to develop State Implementation Plan Management Plans and hosting monthly reviews; streamlining Standard Operating Procedures and Federal Register templates; using SharePoint, e-routing, and e-signature to more efficiently process State Implementation Plans; and implementing weekly management meetings to discuss State Implementation Plan actions.

From October 1, 2013 to October 1, 2017, Region 6 reduced the State Implementation Plan backlog from 135 to 30 and is on track to eliminate the current backlogs in 2018 and prevent new ones.

#### **Denka Facility**

As part of Denka's Administrative Order of Consent with Louisiana Department of Environmental Quality, the company agreed to install control technologies to reduce emissions of chloroprene at the facility. EPA and DOJ worked closely with LDEQ in developing the agreement that includes a thermal oxidizer as well as other measures. Once these control devices are in place in December 2017, EPA will be closely evaluating the emissions and collecting data that would inform a potential technology review of this source category.

In addition, EPA's National Enforcement Investigation Center (NEIC) identified noncompliance with air toxics regulations at a June 2016 inspection. The violations were subsequently referred to DOJ for enforcement. EPA and DOJ with LDEQ will negotiate settlement of these violations and evaluate the potential for further reductions in addition to those achieved by the state order.

Our primary objective is to reduce emissions in the near term. Installing control technologies will meet this objective faster than the regulatory timeframe. The Clean Air Act section 112 lays out a schedule that requires both a risk and a technology review within eight years of issuance of a Maximum Achievable Control Technology standard. The law requires a technology review every eight years thereafter.

There is no federal air standard for chloroprene emissions. EPA relies on the Integrated Risk Information System for Chloroprene which was revised in 2010 to 0.2 ug/m3 using information that chloroprene is likely to be carcinogenic to humans. The Agency has received a formal Information Quality Correction Request regarding the assessment of chloroprene. This matter is currently under review. As such, EPA is not commenting on the Integrated Risk Information System value at this time.

The Denka Performance Elastomer (Denka) facility, located in LaPlace, Louisiana, is the only place in the United States currently manufacturing neoprene. EPA became aware of the potential risk associated with the facility's emissions of chloroprene, a primary chemical used in the manufacture of neoprene, in December 2015 as a result of EPA's National Air Toxics Assessment (NATA).

EPA continues to monitor ambient air in the neighborhoods surrounding the facility and release data on its website. Chloroprene concentrations remain elevated. The state has requested EPA to continue to conduct air monitoring for one year following the thermal oxidizer installation.

#### **EPCRA/CERCLA Reporting Requirement for Hazardous Animal Waste Air Releases**

In 2008, EPA exempted most farm, particularly Consolidated Animal Feeding Operations (CAFOs) from the emergency release reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Several citizen groups challenged the EPA rule, and a Circuit Court of Appeals vacated the EPA rule in April, 2017. The Court ruled agricultural facilities/farms would be required to report air releases of ammonia and/or hydrogen sulfide  $\geq 100$  lbs in a 24-hour period from animal wastes under EPCRA and CERCLA to federal, state, and local government officials. The court granted an EPA request to extend the reporting start date to November 15, 2017. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate for the agricultural facilities to begin reporting until January 22, 2018. There are many thousands of feedlots in Region 6 that may be affected.

EPA issued guidance on October 25, 2017, to provide compliance assistance to farmers on the Comprehensive Environmental Response, Compensation, and Liability Act requirements, and to set forth EPA's preliminary interpretation of the "routine agricultural operations" exemption in Emergency Planning and Community Right-to-Know Act as it applies to farms: that farms using substances in "routine agricultural operations" are not subject to Emergency Planning and Community Right-to-Know Act's reporting requirements.

EPA is continuing to communicate with animal agriculture stakeholders, States, and other entities. EPA has a website all stakeholders can find the most up-to-date information, including resources and questions and answers. EPA has developed a streamlined 30-day report form for farms, which is being reviewed by OMB following expedited information collection procedures to make it available to farmers quickly. Questions may be submitted to EPA. EPA continues to work on processes to assist the regulated community in streamlining the reporting requirements. Additionally, EPA will be working on how to efficiently and effectively process the written reports once they are submitted early next year.

#### **National Carbon Black Initiative**

EPA and the Department of Justice expect to finalize settlement agreements with Orion Engineered Carbons, Sid Richardson Carbon and Energy Company, and Columbian Chemicals Company within the next few months for Clean Air Act violations. The Louisiana Department of Environmental Quality (LDEQ) and the Texas Commission on Environmental Quality (TCEQ) are participating in settlement discussions, along with other states where these companies have facilities. However, TCEQ has been unable to review the draft Orion consent decree because the state and Orion have not yet resolved Orion's concerns regarding confidentiality related to the state's open records laws. EPA has already reached settlement agreements with the other two carbon black manufacturers with facilities in the U.S., Cabot Corporation (2014) and Continental Carbon Company (2015).

In early 2017, EPA received Congressional letters urging the agency to complete its enforcement cases against the three remaining companies, in part, to level the playing field in an industry that claims it has very narrow profit margins. In addition, Cabot and Continental met with senior EPA and Department of

Justice officials in 2017 regarding this issue. EPA is currently in the process of amending the Cabot and Continental consent decrees to adjust certain deadlines for emission limits to bring them into line with the deadlines in the proposed Sid Richardson, Orion, and Columbian consent decrees. The agency plans to finalize the amendments on the same timeframe as the lodging of the new consent decrees.

EPA began investigating carbon black manufacturing plants as part of the agency's national enforcement initiatives aimed at reducing air pollution from the largest sources and cutting hazardous air pollutants. Carbon black is a fine carbonaceous powder used as a structural support medium in tires and as a pigment in a variety of products. The manufacturing process creates large amounts of sulfur dioxide (SO<sub>2</sub>) and significant amounts of nitrogen oxides (NO<sub>x</sub>) and particulate matter (PM). During the investigations, EPA found that each of the 15 carbon black facilities in the U.S. was uncontrolled for sulfur dioxide and nitrogen oxides, lacked continuous emissions monitors (CEMs), and emitted large quantities of PM. The agency identified violations at all five companies. The companies failed to obtain pre-construction permits and operate appropriate sulfur dioxide and nitrogen oxides control technology for major modifications at each of their carbon black plants.

#### **Eagle Ford Shale Compliance Activities**

Region 6 and the Office of Enforcement Compliance Assistance are meeting with TCEQ in Austin on December 11, 2017, to discuss the appropriate follow up for observed excess volatile organic compound emissions noted during OECA field surveys in the Eagle Ford shale in September 2016. Office of Enforcement Compliance Assistance will be presenting a summary of recent national oil and gas settlements and their experiences in investigating and resolving cases with companies that have system-wide design issues related to facility volatile organic compound collection and destruction systems. In addition, Office of Enforcement Compliance Assistance will share their perspective on the areas of concern identified during the field surveys in the Eagle Ford Shale and why they believe that two companies, Chesapeake and Encana, may have poorly-designed volatile organic compound collection systems that are causing the excess emissions. Office of Enforcement Compliance Assistance will also discuss the benefits of issuing an information request to the two companies to evaluate the design of their volatile organic compound collection systems, assess the effectiveness of their maintenance practices, and confirm the accuracy of their permit representations.

The meeting will also include a discussion of Texas Commission on Environmental Quality's proposed approach to addressing the excess emissions noted from EPA field surveys. In previous conversations with Texas Commission on Environmental Quality's, they requested the lead in following up on the observations. Given that the inspections were over 14 months ago, Texas Commission on Environmental Quality's has proposed conducting additional inspections and helicopter-mounted Forward Looking Infrared (FLIR) camera surveys to detect excess volatile organic compound emissions.

At the conclusion of the meeting, the goal is to have an agreement with Texas Commission on Environmental Quality on the best approach for addressing these cases.

276 OBJECTIVE 1.2-PROVIDE FOR CLEAN AND SAFE WATER:

277 Ensure waters are clean through improved water infrastructure and, in partnership with the states and  
278 tribes, sustainably manage programs to support drinking water, aquatic ecosystems, and recreational,  
279 economic, and subsistence activities.

280 **RESTORE Act Council**

281 US Department of Agriculture had been serving as Chair since March 2016, but stepped down in late  
282 September 2017. The Act requires the States to recommend a Chair from the Federal members of the  
283 Council, which is then followed by the President designating a Chair. The five Gulf states voted  
284 unanimously on November 28, 2017 to recommend EPA as Chair. EPA's Gulf of Mexico Program  
285 provides key leadership to the Council's Steering Committee and workgroups, and is implementing  
286 projects across the Gulf Coast region.

287 Spurred by the Deepwater Horizon oil spill, the Resources and Ecosystems Sustainability, Tourist  
288 Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act) was signed into law  
289 on July 6, 2012. The RESTORE Act calls for a regional approach to restoring the long-term health of the  
290 valuable natural ecosystem and economy of the Gulf Coast region. The RESTORE Act dedicates 80  
291 percent (\$5.5B) of civil and administrative penalties paid under the Clean Water Act, after the date of  
292 enactment, by responsible parties in connection with the Deepwater Horizon oil spill to the Gulf Coast  
293 Restoration Trust Fund for ecosystem restoration, economic recovery, and tourism promotion in the  
294 Gulf Coast region. This effort is in addition to the restoration of natural resources injured by the spill  
295 that is being accomplished through a separate Natural Resource Damage Assessment under the Oil  
296 Pollution Act. A third and related Gulf restoration effort is being administered by the National Fish and  
297 Wildlife Foundation using funds from the settlement of criminal charges against BP and Transocean  
298 Deepwater, Inc.

299 In addition to creating the Trust Fund, the RESTORE Act established the Gulf Coast Ecosystem  
300 Restoration Council. The Council includes the Governors of the States of Alabama, Florida, Louisiana,  
301 Mississippi and Texas; the Secretaries of the U.S. Departments of Agriculture, the Army, Commerce,  
302 Homeland Security, and the Interior; and the Administrator of the U.S. Environmental Protection  
303 Agency. The Council is leading projects valued at \$8.8M to work with local stakeholder groups to achieve  
304 near-term, on-the-ground ecosystem and economic benefits, while also conducting planning activities  
305 designed to build a foundation for future success.

306 The April 2010 Deepwater Horizon oil spill in the Gulf of Mexico was the largest oil spill in U.S. history. In  
307 2016 the United States (including EPA), the five Gulf States, and BP entered into a \$20 billion Consent  
308 Decree resolving claims for federal civil penalties and natural resource damages related to the spill.

309 In April 2016 EPA and the other Natural Resource Damage Assessment Trustees published a  
310 Programmatic Damage Assessment and Restoration Plan and work has begun on several tiered  
311 restoration plans to restore wildlife and habitat and increase recreational opportunities.

312 Under the Consent Decree, BP must pay up to \$8.8 billion in natural resource damages. The Natural  
313 Resource Damage Assessment federal trustees – NOAA, DOI, EPA, and USDA – and the five Gulf state  
314 trustees are jointly responsible for these funds and will use them to restore natural resources injured in  
315 the spill. EPA provides necessary and valuable expertise in water quality, nonpoint source nutrient and



stormwater pollution, and wetlands. The Natural Resource Damage Assessment restoration work is expected to last 15-20 years.

The EPA Office of Water has been leading Natural Resource Damage Assessment work and coordinates with the Gulf of Mexico Program and Regions 4 and 6. The current allocation for EPA Natural Resource Damage Assessment efforts over the next year is approximately \$1 million. Work is carefully tracked, charged, and subject to independent audits

#### **Lake Pontchartrain Basin Restoration Program**

#### **Unresolved costs for a federal grant have prevented the University of New Orleans Research and Technology Foundation from receiving Fiscal Year 2017 funding to administer the Lake Pontchartrain Basin Restoration Program.**

A 2016 internal audit found that EPA failed to administer certain amendments to the Federal Water Pollution Control Act for grants awarded to the University of New Orleans Research and Technology Foundation resulting in over \$410,000 in unresolved match costs.

The Lake Pontchartrain Basin Restoration Act of 2000 authorized by Congress under an amendment to the Federal Water Pollution Control Act, recognized the national significance of the Lake Pontchartrain; however, it has not been officially designated as a member of the National Estuary Program. The program has helped to restore the ecological health of the basin by developing and funding restoration projects and related scientific and public education projects. The University of New Orleans has received federal grant to administer the program and award sub-grants to the 16 parishes surrounding the basin for restoration projects and studies. As a part of an effort strengthening grant programs' oversight, an internal review of the program by the Office of Grants and Debarment and Region 6 in 2016 revealed that an amendment to the Federal Water Pollution Control Act in 2011 (enacted December 2012) increased the statutory match for the PRP from 5 percent to 25 percent, which created a match deficit totaling \$410,960 for FY13 and FY15 grants. EPA is unable to waive match required by statute. The review also determined that UNORTF was incorrectly using a 4 percent "Management Fee" to recover costs for its administration of the Pontchartrain program, which is not in accordance with EPA policy and grant regulations.

EPA and University of New Orleans have been reconciling documentation to account for any unreported match for Fiscal Years 2007-15 to help reduce or close the match deficit. University of New Orleans submitted an indirect cost rate proposal to EPA in order to properly account for administrative costs. EPA is reviewing the submittal and a decision is expected in 2018. An approved indirect cost rate proposal may be sufficient to meet the remaining match deficit, thereby allowing the Region to award FY17 funds.

The 2012 Pontchartrain Amendment also re-authorized the Program until the end of fiscal 2017. To date, there has not been another Congressional reauthorization specific to Lake Pontchartrain Basin Restoration Program. EPA is currently researching whether the 2016 Reauthorization of the National Estuaries Program (NEP) also reauthorizes the Pontchartrain Program. If it is determined that Pontchartrain is covered by this Reauthorization, the federal and local cost share would increase to a 50-50 share starting in fiscal 2018. The program participants may experience hardship coming up with an increase match requirement as mandated by statute.

**Urban Waters Small Grant Program**

On September 27, 2017, the Urban Waters Federal Partnership was one of two EPA winners of the 2017 Samuel J. Heyman Service to America Medals, better known as the “Sammies.” The EPA Urban Waters Federal Partnership got the most votes from the public in the People’s Choice category for their work on creating public-private partnerships to clean up urban waterways and surrounding lands, which will help spur economic development and revitalize communities.

The Sammys are awarded annually by the Partnership for Public Service, and are designed to highlight excellence in our federal workforce and inspire other talented and dedicated individuals to go into public service.

The Urban Waters Federal Partnership reconnects urban communities with their waterways by improving coordination among federal agencies and collaborating with community-led revitalization efforts to improve our Nation's water systems and promote their economic, environmental and social benefits. Healthy and accessible urban waters can help grow local businesses and enhance educational, recreational, social and employment opportunities in nearby communities. The Urban Waters Federal Partnership is co-lead by the Department of Interior, Department of Agriculture, and the EPA, along with ten other federal agencies.

The Urban Waters Small Grants Program, an EPA-led grants program, is expanding the ability of communities to engage in activities that improve water quality in a way that also advances community priorities. Since the inception of the Urban Waters Small Grants Program in 2012, Region 6 has awarded over \$990,000 in grants to 14 organizations across the Region, funding a wide range of projects that help protect and restore Urban Waters.

**Corpus Christi Sanitary Sewer Overflows**

The Region referred enforcement matter to the U.S. Department of Justice in August 2011 to address unauthorized sanitary sewer overflows and effluent discharges in violation of the Clean Water Act. The case is pending resolution.

The EPA, Department of Justice, and the State of Texas have been near a settlement with the City of Corpus Christi on several occasions but local elections and changes in city management have delayed progress and resolution. On August 21, 2017, the Department of Justice notified the City of its intention to file the case in court at the end of September. As a result of Hurricane Harvey making landfall on August 26 near Corpus Christi as a category 4 hurricane, the Department of Justice, EPA and the City of Corpus Christi agreed to suspend the deadline for the conclusion of negotiations previously set for the end of September 2017.

The current settlement document under consideration has the City paying a civil penalty of \$1 million that will be split between state of Texas and the United States, along with a Supplemental Environmental Project valued at \$600,000. The corrective measures will cost more than \$632 million over the next 10 years and \$885 million over the next 30 years. In December 2017, a series of technical calls are being held to work out several issues concerning assessment and remediation of conditions and capacity of the system.

Corpus Christi owns and operates six wastewater treatment plants. Performance and operating assessments of the wastewater treatment plants indicate 120 effluent violations since 2007 from its plants. The City repeatedly violated effluent limits set forth in its National Pollutant Discharge Elimination System permit for flow, enterococci, fecal coliform, total suspended solids, biological oxygen demand, ammonia, nitrogen, residual chlorine and pH. The causes of violations include: (1) untreated discharges of sewage from the waste water collection system, (2) failure to comply with operation and maintenance conditions contained in its permits due to discharges, (3) exceedances of effluent limits contained in permits due to discharges, (4) discharges of untreated wastewater into waters of the United States and State waters without a permit, and (5) creating an imminent risk of harm to human health and the environment by causing dangerously high levels of bacteria in recreational waters located in and around the City.

#### **Houston Sanitary Sewer Overflows**

On August 7, 2017, the City of Houston submitted a settlement proposal in which it substantially changed the terms of the previously agreed draft consent decree with the Department of Justice and EPA. The parties are currently working towards resolving differences.

During the Summer 2017, the parties reached a tentative agreement in principle in which Houston will pay a penalty of \$4.4 million to be split between the State of Texas and the United States and the City would conduct a federal Supplemental Environmental Project valued at \$1.5 million. Houston has agreed to conduct corrective action of its sewer collection system and wastewater treatment plants that will likely cost more than \$5 billion over a period of 22 to 27 years. However, the parties had not agreed to all of the consent decree language and terms, and a small number of language issues remained.

As a result of Hurricane Harvey making landfall on August 26 as a category 4 hurricane and dropping over 50 inches of rain over Houston, the Department of Justice and EPA agreed to be flexible in working with the City of Houston and the state in resuming and completing the on-going settlement discussions.

Performance evaluation in 2009 of Houston's Sanitary Sewer Overflows indicated that Houston has the most extensive Sanitary Sewer Overflow problem in Region 6. In a five-year period, EPA identified more than 18,000 Sanitary Sewer Overflows. The City of Houston owns and operates 40 wastewater treatment plants and is the second largest municipality in the United States with a separate sewer system.

Houston has a significantly greater number of Sanitary Sewer Overflows than other large municipalities across the country. In addition to the Sanitary Sewer Overflows, the performance evaluation of the wastewater treatment plants also indicated a large number of effluent violations from many of the Houston plants. As a result, the Region referred the case to the U.S. Department of Justice in January of 2009 to address the Sanitary Sewer Overflow and effluent violations of the Clean Water Act.

The State of Texas is represented by the Texas Attorney General's Office and the Texas Commission of Environmental Quality. Texas has been actively involved in the negotiations; however, there are some consent decree issues that have not been resolved related to State issued permits for wet-weather facilities. These issues are being negotiated and are near resolution.

#### **North Bird Creek, Osage County, OK – Underground Injection Control from Oil & Gas Operations**

EPA Region 6 has issued three Proposed Administrative Orders (AO) to Warren American Oil Company, Jireh Resources, LLC, and Novy Oil and Gas, Inc. addressing seven wells that require the well operators to shut-in or shut-down their injection wells.

A hearing occurred on October 11, 2017 in Tulsa, Oklahoma and all three respondents provided testimony. All three operators assert the contamination is a one-time occurrence and dispute EPA's contention that the Mississippi Chat has lost confinement and that injection zones have lost containment of injected fluids. Warren American Oil Co testified that they would like to pump and remove the contamination from North Bird Creek. The company is communicating with the landowner for permission. To date, the operators continue to operate and have not shut-in/shut-down their injection wells. The proposed Orders have not yet been finalized. EPA is considering all comments submitted by the public and operators before issuing a Final Orders. There is a strong possibility that the operators will contest the Final Orders in district court.

The case arose from EPA Region 6 ongoing investigations of high levels of pollutants (i.e. total dissolved solids (TDS)) in a tributary of North Bird Creek which have been present since August 2016. EPA conducted multiple investigations and determined that injected fluids from nearby underground injection wells are no longer confined to the authorized injection zone and migrating to surface waters.

EPA Region 6 implemented a continuous monitoring program in summer 2017, which continues to conduct in-stream surface water quality monitoring from 10 monitor stations and assess additional areas of review in the area. Inspectors download data monthly at the sites. EPA will be observing a pump out event being conducted by at least one operator this week from the North Bird Creek in the areas of the station showing persistent high total dissolved solids levels.

#### **Chevron Questa Superfund Site, Questa, NM**

When the mine was placed on the National Priorities List it was operational and had a National Pollutant Discharge Elimination System permit from EPA that was included in the Superfund Record of Decision. In 2014, the mine permanently closed. The National Pollutant Discharge Elimination System permit is set to expire on October 31, 2018. In 2017, Chevron Mining asked EPA to amend the Record of Decision to eliminate the need for a separate wastewater discharge permit and address all discharges to waters of the United States under the Superfund program. EPA has not made a decision whether to implement Chevron's request.

While consolidation of all requirements under Superfund would appear to be reasonable, local community groups would likely be strongly opposed to consolidation since they believe that the Clean Water Act provides them stronger oversight authorities than they have under Superfund. The Surface Water Quality Bureau at the New Mexico Environment Department may also have reservations over the loss of the National Pollutant Discharge Elimination System permit. In addition, the change would likely require two or more years to execute. Amending the Record Of Decision would require would require EPA to issue a proposed change for public comment, at least one public meeting, development of response to comments and a revised final remedy decision. Furthermore, to make the remedy change enforceable, EPA would then need to work with the Department of Justice and Chevron to amend the current partial consent decree to incorporate the changes in the remedy. The current consent decree required several years to finalize. EPA therefore anticipates that Chevron will submit a request for a permit extension for the short term.

The Chevron Questa Superfund Site is located near the Village of Questa, in Taos County, New Mexico. The site includes a closed molybdenum mine, a milling area and a large tailing facility that is connected to the mill through a nine-mile-long pipeline that was taken out of service on [INSERT DATE]. EPA selected a final remedy for the site in the 2010 Record of Decision and secured agreements with Chevron to implement portions of the work in under administrative orders and a \$143 million partial consent decree.

#### State and Tribal Water Infrastructure Needs

Every four years, the EPA conducts assessments of infrastructure needs by state to support the Clean Water Act and Safe Drinking Water Act Revolving Loan Funds. The most recent needs reported by EPA to Congress in the "Clean Watersheds Needs Survey - 2012" and the "Drinking Water Infrastructure Needs Survey and Assessment - 2011" are listed in the table below along with the FY 2017 SRF capitalization grant amounts for each state. (Amounts are shown in millions of US dollars.)

State	CWA Needs	FY17 CWSRF Cap Grant	SDWA Needs	FY17 DWSRF Cap Grant
Arkansas	\$715	\$9	\$6,098	\$13
Louisiana	\$320	\$14	\$1,165	\$11
New Mexico	\$4,462	\$6	\$5,323	\$8
Oklahoma	\$2,410	\$11	\$6,494	\$13
Texas	\$11,830	\$61	\$33,892	\$60

Region 6 also works with three Indian Health Service offices to implement allocated State Revolving Fund tribal set-aside funding. The Indian Health Service needs are assessed annually.

In 2107, the Clean Water and Drinking Water total for each of the IHS offices are listed in the table below. (Amounts are shown in millions of US dollars.)

IHS Office	Total CW & DW Needs	FY17 CW Indian Set-Aside	FY17 DW Tribal Set-Aside
Albuquerque (NM & CO Tribes)	\$136	\$1.5	\$1.4
Oklahoma (OK & KS Tribes)	\$94	\$.82	\$.47
Nashville (TX, LA & 26 other States)	\$158	\$0	\$0

#### OBJECTIVE 1.3-REVITALIZE LAND AND PREVENT CONTAMINATION:

Provide better leadership and management to properly clean up contaminated sites to revitalize and return the land back to the communities.

**Abandoned Uranium Mine Wastes**

On November 16, 2017, the Office of Inspector General (OIG) for the EPA provided notification of plans to begin preliminary research to examine aspects of the EPA's management of abandoned uranium mine sites in the Navajo Nation. The OIG characterized needed improvement of the EPA's oversight of states, territories and tribes to accomplish environmental goals as a challenge in its 2017 Key Management Challenges report. This project is included in the OIG fiscal year 2018 annual plan.

The evaluation objectives are to determine whether the EPA has a method for prioritizing cleanup of the 50 abandoned uranium mine sites in the Navajo Nation covered under a \$990 million special account from 2015; and whether the EPA has a resource allocation methodology for the special account funds that accounts for estimated cleanup costs, timeframe for cleanup, and scope of cleanup for the 50 sites. The objective questions are preliminary and subject to change if the OIG moves into the fieldwork phase of the evaluation. The OIG plans to conduct work at EPA headquarters and Regions 6 and 9.

About 70 percent of all the uranium mined in the United States from the 1940's through the 1980's came from the 2,500 square mile Grants Mining District located on Navajo and New Mexico lands. Thousands of exploratory borings or holes were made and hundreds of major uranium mines and mills were active in the District before being abandoned. The legacy of the uranium mining industry is millions of tons of waste rock spread over miles and billions of gallons of contaminated water impacting ground water that continue to pose risks to human health and the environment.

Little funding was available to address the problems presented by the uranium mining boom until the February 2011 Tronox settlement that resolved the environmental liability of the defunct Kerr McGee corporation. The settlement provided \$900 million to address uranium mine contamination at 55 mines located on or adjacent to Navajo Nation lands. A Tronox Multi-Agency Stakeholders Group was formed in 2015 to oversee the implementation of the settlement. Region 6 is in the process of completing removal site evaluations and engineering evaluation/cost analyses on mines to support future prioritization and cleanup of Tronox mines.

Region 6 is also utilizing the National Priorities List (NPL) process at three mining related sites in New Mexico: Homestake Mill Site near Grants, NM; United Nuclear Corporation, near Northeast Church Rock, NM; and the Jackpile-Paguate mine, near the Pueblo of Laguna village of Paguate, NM. These three NPL sites are undergoing assessment and cleanup work led by potentially responsible parties.

**Jackpile-Paguate Uranium Mine Superfund Site, Laguna Pueblo, NM**

The Pueblo of Laguna requested that EPA evaluate the Jackpile mine for inclusion on the National Priority List. EPA confirmed elevated levels of uranium in surface water and groundwater exist across the site and following consultation with the Pueblo of Laguna, EPA listed the Site on the NPL. EPA will oversee the Remedial Investigation work by Atlantic Richfield, to better characterize site risks, and will oversee Feasibility Study work to assess potential remedies for mitigating such risks.

EPA and Atlantic Richfield reached a settlement agreement on July 1, 2017, under an Administrative Order on Consent (AOC) to conduct the investigation for the site. Atlantic Richfield began work in July on activities associated with the site investigation and is coordinating with EPA and the Pueblo of Laguna on these actions. EPA has conducted many community meetings in coordination with tribal government to keep the community informed of on-going clean-up efforts at this mine.

This Superfund site was the largest open pit uranium mine in the world and is located entirely on the Pueblo of Laguna in Cibola County, New Mexico. The site is the largest open-pit uranium mine in the world. Anaconda operated the mine from 1953 to 1982. During the 29 years of mining, approximately 400 million tons of rock were moved within the mine area. Approximately 25 million tons of uranium ore from the mine were transported via railroad to Anaconda's Bluewater Mill 40 miles west of the site. The Atlantic Richfield Company is the Responsible Party at the site, and is the corporate successor to Anaconda.

#### **Vertac Superfund Site, Jacksonville, AR**

The Superfund law requires EPA to conduct a review of the protectiveness of remedies where waste was left in place every five years. EPA completed the fourth Five Year Review in 2014 that evaluated the current protectiveness of the remedy. Because EPA had released revised toxicity values for dioxin in 2012, the 2014 5-year review called for a more thorough site specific evaluation to be conducted. EPA is working with the Arkansas Department of Environmental Quality, the City of Jacksonville, Arkansas, and Hercules LLC (the responsible party) to conduct additional sampling for dioxin in a residential area adjacent to the Vertac Superfund Site. The additional sampling is necessary to determine if the remedy continues to be protective.

Local elected officials and the State are concerned that testing be done in a way that does not alarm residents and have a negative impact on the community. EPA has met and will continue to meet with the Mayor of Jacksonville and the Arkansas Department of Environmental Quality until a satisfactory protocol is developed.

The 193 acre Vertac Superfund Site in Jacksonville, Arkansas was the location of herbicide plant that operated from 1948 to 1980 and manufactured "Agent Orange" during the Vietnam War. It was added to the National Priorities List in 1982 and was the focus of a major cleanup program that concluded in 1998. The major contaminant of concern at this site is dioxin. About 1,000 people live within a mile of the site and the cleanup included many residential properties that were impacted by contaminants from the site.

#### **Brownfields Program**

The Brownfields 2017 National Training Conference is cosponsored by EPA and the International City/County Management Association and takes place December 5 -7, 2017, in Pittsburgh, PA.

Since its inception in 2002, the Region 6 Brownfields program has leveraged more than \$2 billion in funds for redevelopment; 1,826 properties have been assessed with most of these properties going back into productive use, benefitting the economies of many communities. More than 16,448 jobs have been created with these leveraged projects.

Region 6 manages a robust Brownfields program that has helped transform cities such as Dallas, Houston, Oklahoma City, Little Rock, and others. Opportunities often exceed available grant funding.

In addition to grants, Region 6 offers two programs to help communities get ready for assessment grants or cleanup grants. Region 6 holds one to two Brownfields workshops per state each year hosts an annual Brownfields conference in June. A weekly Brownfields newsletter provides important updates to communities on upcoming competitions and other vital Brownfields information.

Region 6 Brownfield program manages 58 grants in communities throughout Region 6. Some communities with Brownfields grants include: Oklahoma City and Tulsa, OK; West Arkansas Planning District, Southwest Arkansas Planning District, Pine Bluff and Pulaski County, AR; Austin, San Antonio, Houston, TX; and Silver City, NM. Region 6 also has state and tribal grants with Arkansas Department of Environmental Quality, Louisiana Department of Environmental Quality, Oklahoma Corporation Commission, Oklahoma Department of Environmental Quality, Texas Commission on Environmental Quality, Texas Railroad Commission, Intertribal Environmental Commission (OK), Eight Northern Indian Pueblo Council (NM), Kickapoo Tribe of Oklahoma, and Absentee-Shawnee of Oklahoma.

#### **Donna Canal and Reservoir Superfund Site**

EPA and TCEQ are developing a coordinated plan to permanently address pollution at the Donna Canal and Reservoir site. The state of Texas is a potential responsible party and cleanup cost will need legislature authorization during the 2018 session.

The Donna Canal and Reservoir Superfund Site is located in Hidalgo County, Texas, near the Texas/Mexico border. The local irrigation district pumps water from the Rio Grande River and transfers the water through several miles of canals for irrigation and drinking water supply. The canal system is contaminated with polychlorinated biphenyls in the surface water, sediment, and fish. Extensive EPA studies have identified the source of contamination as a large, 90-year-old, 1,200-foot-long underground pipe.

The contamination bio accumulates in fish. Because the site is a popular with residents for fishing, fish have been periodically removed from the canal and reservoir to prevent human consumption. The fish are removed from the system by the U.S. Fish and Wildlife Service using electroshocking methods. To date, nearly 40,000 fish have been removed and a public outreach program has focused on informing the public to avoid fishing in the system. Local residents catch and consume contaminated fish from the canal despite no-fishing orders issued by the state.

#### **Chaco Canyon**

In April 2018, as a Cooperating Agency under the National Environmental Policy Act, EPA will review the preliminary Draft Environmental Impact Statement related to Unconventional Oil & Gas production for leased parcels in Chaco Canyon prepared by the Bureau of Land Management. The Draft Environmental Impact Statement is expected to be published for public comment in August 2018.

Bureau of Land Management asked EPA to participate in the development of the EIS as a Cooperating Agency. A federal, state, tribal or local agency having special expertise with respect to an environmental issue or jurisdiction by law may be a cooperating agency. A cooperating agency has the responsibility to: assist the lead agency by participating in the National Environmental Policy Act process at the earliest



possible time; participate in the scoping process; develop information and prepare environmental analysis that the agency has special expertise in; and make staff support available. In February 2017, EPA Region 6 agreed to participate as Cooperating Agency. EPA signed a Memorandum of Understanding between the Department of Interior, Bureau of Land Management, Farmington Field Office and the Bureau of Indian Affairs, Navajo Region to establish expectations.

On January 25, 2017, the Bureau of Land Management leased nearly 850 acres of land for unconventional oil and gas development in Chaco Canyon, netting close to \$3 million. The sale had been postponed three times over the last five years because of concerns relating to the proximity to Chaco Culture National Historical Park - a United Nations Educational, Scientific and Cultural Organization World Heritage site and an International Dark Sky Park.

While Chaco Canyon and its ruins, such as Pueblo Bonito, are protected from development, as is a 10-mile buffer around the park, surrounding areas are not. Chaco is the core of a much larger Ancestral Puebloan civilization that extended for hundreds of miles in the central San Juan Basin from about 900 to 1150 A.D. The land today is sacred to Navajo, Hopi, Zuni and other Pueblo Indians, and bears remnants of a system of 30-foot-wide roads radiating outward from Chaco Canyon, as well as extensive ruins, artifacts and even lunar calendars etched into boulders. All of those are still undergoing study by archaeologists.

About 90 percent of the Chaco Canyon area has already been leased for unconventional oil and gas development, and Tribal and Non-Governmental Organization representatives fought to exclude the remaining areas. They succeeded in delaying this lease sale multiple times over concerns that hydraulic fracturing and horizontal drilling would harm public health and the environment. A petition signed by 650 residents and industry representatives, however, asked the Bureau of Land Management to allow the sale to proceed for the jobs and revenue it would generate.

The leased parcels will not be released to the winning bidders by BLM until several protests filed against the leases have been resolved.

#### **Kirtland Air Force Base, Albuquerque**

The Air Force, with oversight by the New Mexico Environment Department, has made significant progress characterizing and addressing a large plume of contamination in the Albuquerque area. While additional assessments are needed because of changing conditions, it appears the plume has stabilized because the water table in Albuquerque has risen, moving the plume back towards the base. EPA continues to work with New Mexico Environment Department and the Air Force to address comprehensive characterization of the plume, refine concentration trends and address the delineation of vertical and horizontal extent of the contamination.

A long-term release of jet fuel and aviation gasoline from underground pipelines at Kirtland Air Force Base in Albuquerque, New Mexico, has resulted in a large plume beneath southeast Albuquerque, near the city's drinking water supply wells, at a depth of 500 feet. The principal contaminant is ethylene dibromide. Ethylene Dibromide B has not been detected in city wells so far, and a groundwater pump and treat system were installed in 2016 as an interim measure under the Resource Conservation and Recovery Act. Health effects from ethylene dibromide include problems with the liver, stomach, reproductive system, and kidneys, and may increase the risk of cancer. EPA developed the groundwater

model now used by New Mexico Environment Department and the Air Force, and the Region continues to support the state by reviewing reports and providing modeling support.

Near-term activities are to test and adjust the pump and treat system to protect the drinking water wells. As of September 11, 2017, 263.4 million gallons of water have been treated, and 75.1 grams of ethylene dibromide have been removed. Long term plans are to eliminate the ethylene dibromide plume from off-site areas, protect the drinking water supply wells, and address other fuel contaminants near the base property line. Corrective action of the fuel spill is being performed under a Resource Conservation and Recovery Act hazardous waste permit issued by New Mexico Environment Department. Kirkland and New Mexico last held public meetings on November 14, 2017.

#### **Waste Isolation Pilot Project, Carlsbad, NM**

The Waste Isolation Pilot Project (WIPP) has made tremendous progress since resuming underground operations in January 2017. After a nearly three-year hold on emplacement, WIPP operations are focused on addressing the nearly 20,000 containers of transuranic waste across the Department of Energy complex. Department of Energy is working with generator sites to ensure that waste destined for the WIPP meets all new acceptance criteria and robust basis of knowledge evaluations.

After inspections by Department of Energy, Mine Safety Health Administration, EPA, and NMED, emplacement of transuranic waste to the underground WIPP resumed on January 4, 2017. Department of Energy says emplacement is at a pace to assure compliance with the enhanced safety procedures and characterization process. Department of Energy currently has more than 22,000 containers of transuranic waste in storage at Department of Energy sites across the country to be placed permanently at WIPP. Shipments are scheduled to the WIPP from Waste Control Specialists in Texas and Department of Energy facilities in Idaho, Oak Ridge, Savannah River and Los Alamos.

The Waste Isolation Pilot Plant near Carlsbad, New Mexico, is the only permanent nuclear repository for defense related transuranic waste. The facility was closed in February 2014 after a radiation release occurred in one of the containers in the underground repository 2150 feet below the surface.

Environmental regulation of the Waste Isolation Pilot Plant is the responsibility of New Mexico Environment Department for hazardous waste under the RCRA, with oversight by Region 6. The Office of Radiation and Indoor Air (ORIA) at EPA headquarters is responsible for approving the facility as capable for safely containing radioactive waste under the Land Withdrawal Act and EPA's radioactive waste disposal standards.

#### **Waste Control Specialists, Andrews, Texas**

Texas Commission on Environmental Quality and EPA are expecting a feasibility report from the Department of Energy by December 31, 2017, that will describe the options for treatment and disposal of transuranic mixed waste currently stored at Waste Control Specialists (WCS). This problematic waste was part of the same waste stream that led to the radiation release at the Waste Isolation Pilot Project in February 2014. Texas Commission on Environmental Quality has made it clear to DOE that it is unacceptable for the waste to remain at Waste Control Specialists.

In April 2014, transuranic mixed waste with hazardous waste was shipped from Los Alamos National Lab to WCS for temporary storage. Waste Control Specialists is a commercial waste treatment, storage and

disposal facility located about 30 miles west of the town of Andrews, near the Texas/New Mexico border. Waste Control Specialists is 100 miles from the Waste Isolation Pilot Project in Southeastern New Mexico. This waste would normally have been shipped directly to Waste Isolation Pilot Project for emplacement; however, the Waste Isolation Pilot Project was closed due to a radiation release in February 2014. It was eventually determined that a portion of the Los Alamos National Lab waste at Waste Control Specialists was part of the same waste stream as the waste that led to the radiation release at Waste Isolation Pilot Project. That portion was segregated at Waste Control Specialists for safety reasons and placed in a landfill.

In 2017 DOE shipped a significant portion of this waste to the WIPP. The remaining portion of the waste, about 120 containers out of 462, may require further treatment before it can be shipped to the WIPP. The DOE feasibility study will offer options for treatment and disposal of this waste.

Waste Control Specialists is regulated by the Texas Commission on Environmental Quality through their hazardous waste program and by the Nuclear Regulatory Commission. EPA's role is oversight of the Texas Commission on Environmental Quality Hazardous Waste Program.

#### **Takata Airbag Inflator Recall**

In November 2017 the State of Texas amended the Clean Harbors, Deer Park Hazardous Waste permit, incorporating provisions for disposal of explosives to allow them to accept Takata airbag inflators currently stored in Eagle Pass, Texas; Howell, Michigan; and Joplin, Missouri. Disposal is anticipated as soon as the Department of Transportation's Preservation Order from the recall is lifted.

Takata has recalled over 60 million airbag inflators due to a defect associated with ammonium nitrate and temperature/humidity cycling of the airbag inflators. Takata has reached storage capacity in warehouses in Michigan (12 million inflators stored) and Missouri (5 million inflators stored). Takata is currently storing recalled inflators at a warehouse in Eagle Pass, Texas, which will reach capacity (5.3 million inflators) in January 2018.

The Department of Transportation issued a Preservation Order that requires Takata to preserve all inflators from U.S. vehicles involved in the recall. EPA does not consider the stored, undeployed inflators to be discarded waste; therefore, they are not subject to the Resource Conservation and Recovery Act at this time. Department of Transportation is reviewing the Preservation Order to allow for the systematic disposal of air bag inflators. Once a subset of inflators is no longer covered by the Preservation Order it would immediately become a hazardous waste, and hazardous waste storage/disposal rules would apply.

Takata is in conversations with disposal facilities in Missouri, Texas, and possibly other states in anticipation of permission being granted to dispose of a significant quantity of the recalled air bag inflators. There are about 150,000 lbs. of ammonium nitrate per million inflators. Takata declared bankruptcy in June 2017, and upon its exit, the Original Equipment Manufacturers (OEMs) will become more responsible for the recall activity.

At EPA's request, Texas Commission on Environmental Quality conducted a site visit to the Eagle Pass storage facility in October 2017, and coordinated with the local fire chief on emergency response planning.

**Oklahoma Underground Storage Tank Program**

EPA has prepared a direct final rule to grant approval of Oklahoma’s Underground Storage Tank program. Without adverse comment, the rule will be effective 30 days after publication in the Federal Register.

EPA amended the Underground Storage Tank (UST) regulations in 2015. As a result, states need to reapply to EPA for approval of their UST programs. The Oklahoma Corporation Commission has responsibility for the program in Oklahoma. Oklahoma has enacted statutes and developed regulations in accordance with EPA requirements, put other necessary components of the program in place and applied for formal approval. A state program can be approved if it is judged to meet three criteria: it sets standards for eight performance criteria that are no less stringent than federal standards; it contains provisions for adequate enforcement; and it regulates at least the same USTs as are regulated under federal standards.

**Oklahoma Coal Combustion Residue Permitting Program**

The Oklahoma Department of Environmental Quality has requested review and approval of its permit program pertaining to coal combustion residual (CCR) units. Should the Agency approve Oklahoma’s program, it will be the first program approval acted upon by EPA.

There are six Coal Combustion Residue facilities in Oklahoma. The state’s application is currently under review by EPA. Oklahoma did not include in its coal combustion residual rules the EPA recommendation of notice and opportunity for public involvement in settlements of civil actions. However, since this recommendation is based solely on Agency guidance, EPA is evaluating if this should prevent approval of the state’s proposed program.

On October 12, 2017, letters were sent to tribal leaders offering consultation and coordination regarding the CCR Permit Program Application from the State of Oklahoma. On October 19, 2017, Region 6 began government-to-government consultation and coordination by having a conference call to answer questions on the CCR program and the Oklahoma application.

On September 14, 2017, EPA granted two petitions to reconsider substantive provisions of the final rule regulating coal combustion residuals (CCR) as nonhazardous waste under subtitle D of the Resource Conservation and Recovery Act.

In granting the petitions, EPA determined that it was appropriate, and in the public’s interest to reconsider specific provisions of the final CCR rule based in part on the authority provided through the Water Infrastructure for Improvements to the Nation Act. EPA did not commit to changing any part of the rule, or agreeing with the merits of the petition – the Agency simply granted petitions to reconsider specific provisions. Should EPA decide to revise specific provisions of the final CCR rule, it will go through notice and comment period.

**OBJECTIVE 1.4-ENSURE SAFETY OF CHEMICALS IN THE MARKETPLACE:**

Effectively implement the Toxics Substance Control Act, and the Federal Insecticide, Fungicide, and Rodenticide Act, to ensure new and existing chemicals and pesticides are reviewed for their potential risks to human health and the environment.

Region 6 has a robust Pesticide import program. In FY 2017 (October 2016 to September 2017) we took actions to prevent over 450,000 pounds of illegal pesticides from entering the United States. There are more shipments of pesticides entering the United States through Region 6 ports than in any other region. Our nine regional ports historically receive over 30% of the shipments of pesticide products entering the U.S. Currently, our largest ports for pesticide products are El Paso, Laredo, and Houston.

We review incoming Notices of Arrivals so that we can advise U.S. Customs to reject the shipment or admit it into the United States. The Notice of Arrivals are usually accompanied by the product label, and we confirm correct labeling for the product in real time.

#### GOAL 2- COOPERATIVE FEDERALISM:

Rebalance the power between Washington and the states to create tangible environmental results for the American people.

#### OBJECTIVE 2.1-ENHANCE SHARED ACCOUNTABILITY:

Improve environmental protection through joint governance and compliance assistance among state, tribal, local, and federal partners.

#### **Los Alamos Municipal Separate Storm Sewer Systems Designation**

EPA was petitioned to designate unregulated storm water discharges in Los Alamos County, NM as contributing to violations of water quality standards. Region 6 has primacy for the National Pollution Discharge & Elimination System program in New Mexico. EPA plans to make a final designation decision concurrently with issuance of a Municipal Separate Storm Sewer System permit for Los Alamos area in late 2018.

Los Alamos County leaders and the Department of Energy, the federal agency managing Los Alamos National Laboratory, requested EPA to not designate the area. Local tribal leaders support the designation.

The petition cites EPA's duty to issue a Municipal Separate Storm Sewer System permit to control urban storm water discharges from Los Alamos National Laboratory and Los Alamos County. In August 2017, EPA denied the Santa Fe-based Concerned Citizens for Nuclear Safety petition to terminate Outfall 051 from Los Alamos National Laboratory's NPDES water discharge permit. The petition alleged that since Los Alamos National Laboratory does not normally discharge from this outfall, continued authorization under the National Pollution Discharge & Elimination System permit improperly provides an exemption from regulation under Resource Conservation Recovery Act.

Several ephemeral and intermittent waters in the Los Alamos area are listed as impaired for one or more pollutants including PCBs, gross alpha, aluminum, copper, zinc, arsenic, selenium, thallium, and mercury.

#### **Osage County Underground Injection Control Program**

Region 6 continues to issue and enforce compliance orders to require underground injection wells contributing to over-pressurization of the subsurface zones to shut-in, and align operator permit and reporting requirements in Osage County with the requirements in other areas of the state.

Based on the Osage Allotment Act of 1906, the Osage Nation owns all subsurface mineral rights within Osage County (the largest county in Oklahoma at 2,304 mi<sup>2</sup>). The Osage Minerals Council develops and administers the Osage Mineral Estate. The Bureau of Indian Affairs, under delegation from the Secretary of the Interior, administers oil and gas resources in Osage County for the benefit of the Osage Nation. The Osage Minerals Council must consent to leases and the Bureau of Indian Affairs Superintendent approves them. Since Osage County is Indian Country, EPA administers the Underground Injection Control program with assistance from the Osage Nation, per a Memorandum of Agreement.

In August 2016, Bureau of Indian Affairs alerted EPA to elevated levels of Total Dissolved Solids (TDS) (over 80,000 parts-per-million) in an upper tributary of North Bird Creek. The water supply for the city of Pawhuska, about 15 miles downstream, has not been impacted. After collecting a variety of data from three operators of seven injection wells, EPA issued orders requiring the wells be shut-in. EPA held a hearing on October 11, 2017, related to proposed Administrative Orders sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc. All three respondents believe the contamination is a one-time occurrence and dispute EPA's contention that the Mississippi Chat is over-pressurized. EPA continues to monitor for any possible impacts to downstream users.

Two significant earthquakes (Magnitude 5.8 on 9/3/2016 and Magnitude 4.3 on 11/1/2016) highlighted areas of concern within Osage County. EPA, working closely with Oklahoma Corporation Commission, Osage Nation Minerals Council, Osage Nation, US Geological Survey and Bureau of Indian Affairs, responded consistently with the Corporation Commission response strategy and quickly to these events to shut in, reduce or cap injection volumes in the appropriate disposal wells.

In an effort to strengthen Underground Injection Control permits for oil and gas related injection wells in Osage County, the Region has developed new permit conditions under its direct-implementation program for Osage. The new requirements are consistent with permit conditions currently required under the Oklahoma Corporation Commission's injection well program. These include requirements for daily monitoring of injection pressures and volumes, and earthquake contingencies that would automatically require reduced injection volume or well shut-down if a nearby earthquake occurs. We plan to include these requirements in all new Osage UIC permits and to modify existing permits in a phased approach during calendar year 2018.

#### **US-Mexico Border Program: 2020**

The 1983 La Paz Agreement contains an organizational structure of coordinating bodies that includes U.S., tribes and states' executive officers and chairmanship, chaired by EPA's Regional Administrator and Mexico's federal delegate. They convened as a Regional Work Group (RWG) with a primary function to identify and prioritize regional implementation efforts that address the goals and objectives of Border 2020 (B2020). Region 6 has two RWGs: New Mexico-Texas-Chihuahua and Texas-Coahuila-Nueva Leon-Tamaulipas.

Border 2020, the latest environmental program implemented under the 1983 La Paz Agreement, is an eight-year, bi-national environmental program for the U.S.-Mexico border region which began in 2012.

The program was developed by EPA and SEMARNAT, the U.S. border tribes, and the environmental agencies from each of the ten U.S. and Mexico border States. The mission of the Border 2020 program is to protect the environment and public health in the US-Mexico border region consistent with the principles of sustainable development. The program also encourages meaningful participation from communities and local stakeholders.

The Presidents of the United States and Mexico signed the Border Environment Cooperation Commission and North American Development Bank Agreement in November 1993, which created a binational program that develops and funds environmental infrastructure projects for communities along the border. The projects include drinking water access, wastewater treatment, municipal solid waste, improving air quality, and water management among others. The Border Environment Cooperation Commission is responsible for working with communities on project development; the North American Development Bank Agreement provides financing and helps arrange other public and private sector funding.

The integration of Border Environment Cooperation Commission and North American Development Bank was approved by the U.S. and Mexican governments, with entry into force of the amended charter in September 2017. Border Environment Cooperation Commission merged with North American Development Bank, and all Border Environment Cooperation Commission grants, contracts and other arrangements must be legally transferred to North American Development Bank in anticipation of the institutional integration. They have a joint Board of Directors, composed of members from the U.S. Department of Treasury, Department of State, EPA, and their Mexican counterpart agencies, as well as state and public representatives.

#### **US-Mexico Border Program: Border Water Infrastructure Program Grants**

The U.S./Mexico Border Water Infrastructure Program is working with the North American Development Bank, other federal and state partners, as well as Mexico's CONAGUA federal water commission to request project applications under a new Prioritization Cycle fiscal year 2018 (Oct 2017 to Sept 2018). A number of changes to the previous prioritization process will allow the program to accept applications year-round and assess project selection throughout the year, therefore being able to maintain a portfolio of projects in development as well as construction. An additional 11 projects in development are expected to initiate construction during fiscal year 2018. These projects will supplement 10 projects currently in construction.

The U.S./Mexico Border Water Infrastructure Program was started with an open project-application process that provided technical assistance and construction funding on a first-come, first-served basis. However, in 2005, EPA in collaboration with Border Environment Cooperation Commission, North American Development Bank and Mexico's federal water commission initiated a 2-year project solicitation process to prioritize projects to address human health and environmental issues.

EPA provides funding in the form of the Project Development Assistance Program for project planning, studies, development, environmental process review clearance and final design and funding in the form of the Border Environment Infrastructure Fund for construction assistance.

Many border communities are financially disadvantaged and cannot bear the debt burden necessary to build or rebuild water infrastructure through conventional channels. Significant progress is being made

in providing these communities with essential drinking water and wastewater services. However, there remains a substantial documented need for additional services. During EPA’s most recent “solicitation of need,” it was estimated that a construction cost of about \$300 million remains unfunded in order to address the highest priority water and wastewater projects.

In 1994, the United States Congress provided \$100 million to EPA as part of the State and Tribal Assistance Program appropriation to support communities along the U.S./Mexico Border area within 62 miles (100 km) on each side of the border. Since then, Congressional State and Tribal Assistance Program annual appropriations to EPA totaled over \$700 million. These funds were identified to support high-priority drinking water and wastewater infrastructure to strengthen local capacity and strategically address environmental issues in the U.S./Mexico Border area at a community level. The Border Water Infrastructure Program funds construction projects that prevent millions of gallons of raw sewage from entering border region waters, significantly reducing risks to public health and the environment in the United States. Benefits to the United States also include minimizing the potential exposure to or spread of diseases through the provision of safe drinking water services and improving the quality of our shared waterways for recreational and other designated beneficial uses. Construction of these structures stimulates local economies and creates new jobs in these depressed communities.

#### **Oil & Gas Collaboration**

Region 6 is organizing a series of meetings with our state regulatory partners to discuss coordination in addressing issues and concerns related to the oil and gas industry. We will be travelling to each state capital over the next six to eight weeks to meet jointly with the lead state environmental and state oil and gas regulatory agency. This effort supports Administrator Pruitt’s July 2017 commitment for increased coordination and collaboration.

Another aspect of Administrator Pruitt’s commitment is to convene a roundtable with representatives of the oil and gas sector and state regulatory agencies to discuss industry concerns and enhance communication while ensuring safe and responsible domestic oil and gas production. EPA has been working with the Environmental Council of State (ECOS) and the Interstate Oil and Gas Compact Commission (IOGCC), which represent the state agencies that regulate the industry, to co-host the Oil and Natural Gas roundtable. The roundtable will bring together a small group of representatives from state agencies, tribes, industry, non-government organizations, and EPA. The discussions will focus on barriers to cost-effective and timely compliance, meaningful solutions and innovative examples.

In response to inquiries from state oil and gas regulatory agencies and individual companies, EPA has been examining technical innovations that would facilitate produced water management options beyond traditional disposal approaches. It is thought that these alternatives will address concerns raised by the public about the use of scarce water resources in times of draught and potential induced seismicity from disposal wells.

#### **OBJECTIVE 2.2-ENHANCE TRANSPARENCY AND PUBLIC PARTICIPATION**

Listen to and collaborate with impacted stakeholders and provide effective platforms for public participation and meaningful engagement.

#### **Freedom of Information Act Requests**



922 In preparation for a national Freedom of Information Act (FOIA) Lean project that will begin in January  
923 2018, Region 6 formed a regional team to capture and improve our current processes in (1) assigning  
924 and tracking FOIAs, and (2) searching, reviewing and then uploading responsive records.

925 On November 21, 2107, EPA announced that the Agency is on track to significantly reduce the backlog of  
926 FOIA requests received prior to 2017. EPA's National FOIA Office and offices across the agency have  
927 been working hard to clear the backlog of FOIA requests that existed at the start of 2017. As of early  
928 October, 2017, EPA had 652 open FOIA requests that were submitted in prior years. As of November 21,  
929 the Agency is on track to provide responses to over 70 percent of those requests by the end of the  
930 calendar year. In addition to clearing the backlog from previous years, EPA continues to process  
931 incoming FOIA requests, to ensure the current administration is being open and transparent and to  
932 avoid unnecessary costs to the American taxpayer. For requests that cannot be completed by the end of  
933 the calendar year, the Agency is developing request-specific plans to ensure they are completed as early  
934 as possible. EPA is currently defending 41 FOIA lawsuits, which demonstrates that the public feels  
935 stronger about access to information. The National FOIA Office set targets, shared best practices, and  
936 worked together with the regions and programs to ensure that relevant information is shared with the  
937 public in ways that properly responded to each request. The National FOIA Office will also be  
938 developing a new webpage showing the progress of the backlog reduction effort, which will be found  
939 [www.epa.gov/foia](http://www.epa.gov/foia).

940 In fiscal year 2017 EPA received 11,493 FOIA requests, 995 more than the previous fiscal year. In that  
941 same period, EPA received 36 new FOIA lawsuits, compared to only 12 lawsuits in the previous year. The  
942 EPA is under a production deadline in litigation brought by the Natural Resources Defense Council  
943 (NRDC). There is one of several FOIA requests seeking communications between EPA staff and the  
944 Trump Presidential Transition Team.

945 The numbers provided for pre-2017 FOIA requests do not include 34 pre-2017 requests received by  
946 EPA's Office of the Inspector General, which is an independent office within EPA.

#### 947 **Environmental Justice Forum**

948 In June 2018, Region 6 is planning to host a region-wide environmental justice forum to discuss solutions  
949 to environmental justice community concerns. The Environmental Justice Forum will bring together  
950 state officials, community representatives, and local governments, and representatives from our state  
951 environmental agencies as part of an on-going strategy to understand community concerns and educate  
952 communities on environmental impacts.

953 Beginning in 2013, we held environmental justice workshops in each of the five states (Arkansas,  
954 Louisiana, New Mexico, Oklahoma, and Texas) that culminated in the Environmental Justice Summit that  
955 was held in Dallas in 2016. Each of the state workshops and the Summit brought together grassroots  
956 organizations and partners, academia, local officials and government representatives to better  
957 understand concerns and challenges facing environmental justice communities. Participants discuss  
958 strategies and best practices for healthy communities and a collaborative action plan that addresses  
959 regional and state-wide environmental justice priorities. Each of our state environmental agencies have  
960 a program similar to EPA's environmental justice program.

On February 6, 2017 the Environmental Conference of States issued a report, titled “State Approaches to Community Engagement and Equity Considerations in Permitting,” highlights efforts by Tennessee, California, New York, South Carolina, Mississippi and Minnesota to integrate EJ into their environmental permits, though it cautions that regulators' discretion in that area can be limited both by the terms of the Civil Rights Act's Title VI and state laws. The EPA released the Environmental Justice 2020 Action Agenda in October 2016. The final document incorporates relevant input from Environmental Conference of States, which represents many state environment agencies.

In October 2017, EPA announced nearly \$1.2 million in competitive grants selected for award to 36 locally based community and tribal organizations working to address environmental justice issues in their communities. The grants enable organizations to conduct research, provide education, and develop community-driven solutions to local health and environmental issues in minority, low-income, and tribal communities. Region 6 received four grants. The ARC Foundation seeks to train up to 200 Oklahoma City residents on affordable water conservation practices for home use, as well as to bring more awareness to the community about the need to protect its natural water resources. Arkansas Interfaith Power & Light proposes to renovate and repurpose an abandoned building and lot to become a local community center where individuals in at-risk areas of Little Rock will be introduced to holistic solutions to local energy production and healthy food alternatives. Sandia Pueblo camps seek to address surface water impairment on the 19 Pueblo reservations by providing water quality monitoring trainings and improving educational outcomes for tribal youth in New Mexico. In New Orleans, T.R.E.E.'s Sunship III program brings 7th grade students from local, low-income schools to the outdoor classroom.

In order to ensure the most underserved and overburdened communities have a meaningful say in environmental protection and regulation, the Office of Environmental Justice moved to the Office of Policy in September 2017. The Office of Environmental Justice works in partnership with the Office of Sustainable Communities, which was renamed the Office of Community Revitalization, to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs.

#### **Making a Visible Difference in Communities**

EPA Region 6 has selected six communities to better coordinate and leverage resources throughout the agency and with other federal partners. These on-going projects focus on both long standing environmental concerns and their relation to public health as well as emerging issues within communities.

In Crossett, Arkansas, the residents from the predominantly African-American community in West Crossett have been concerned for many years about air emissions and water discharges from the Georgia-Pacific LLC paper facility, particularly the effects of long-term exposure to hazardous chemicals. The Pueblo de Cochiti is interested in integrating green infrastructure into land use planning, stormwater management, infrastructure improvements, transportation planning and open space to enhance community and tribal lands in New Mexico. The town of Anthony, New Mexico lacks land use strategies, has a severe deficit of public recreational facilities, and lacks adequate zoning and subdivision regulations. The nearby communities of Alexandria and Pineville, Louisiana encompass multiple hazardous waste sites, including two active creosoting companies, two remediated EPA Superfund sites and a state-lead inactive waste site. The Choctaw Nation of Oklahoma requested Brownfields assistance

to redevelop a closed middle school complex into a native serving Boys and Girls Club and new office space. This work includes abating asbestos and lead-based paint in buildings. In Texas, there are 555 colonias which lack adequate road paving, drainage or solid waste disposal. An additional 337 lack access to potable water, adequate wastewater disposal, or are un-platted. This amounts to 153,842 people experiencing infrastructure challenges that could lead to serious environmental health risks.

#### **Children’s Environmental Health in the U.S. Border States of Texas and New Mexico**

EPA funds activities that address children’s health through requests for proposals and partnering with the Southwest Center for Pediatric Environmental Health (SWCPEH). EPA recently launched a children’s Request for Proposal for funding in October 2017. Region 6 intends to announce awards to New Mexico Department of Health, Texas A&M and Texas Tech in December 2017.

Improving children’s health is fundamental to EPA’s mission, and one of the fundamental strategies under the Border 2020 Environmental Program. Children along the border in Texas and New Mexico are impacted by high rates of asthma, obesity exposures to pesticides, chemicals, mercury, lead, vector borne diseases and poor water and air quality, among others. Children are more vulnerable to pollutants than adults due to differences in behavior and biology. U.S. border communities often face a great public health threat because of lack of basic services and adequate infrastructure, illegal dumping, substandard housing, lack of public spaces or parks, and other economic hardships.

The US-Mexico Border Program and EPA’s Office of Children’s Health funds grants to educate health workers who work directly with U.S. border communities on children’s health issues. In 2016, training was hosted in three U.S. border communities and focused on the Healthy Homes Curriculum and water-borne illnesses. EPA held two Children’s Environmental Health Symposia (El Paso, Texas – September 2015; Brownsville, Texas – August 2016) which focused on 1) education on how early childhood exposure can affect children’s health; and 2) networking among the healthcare community and the public in order to better understand children’s environmental health risks along the U.S.-Mexico Border.

#### **Revitalizing Communities by Growing Local Food Economies**

On November 21, 2017, EPA recognized the outstanding accomplishments of 16 winners participating in EPA’s Food Recovery Challenge. The award recipients achieved the highest percent increases in their sector comparing year to year data. Region 6 had three winners: University of Houston, the Dallas, Texas Kay Bailey Hutchison Convention Center, and the Café de Novo (Dallas, Texas).

The Local Foods, Local Places program was established in December 2014 as a national initiative that helps people create walkable, healthy, economically vibrant neighborhoods through local food enterprise. The program, sponsored by the U.S. Department of Agriculture, EPA, the Centers for Disease Control and Prevention, the Department of Transportation, the Department of Housing and Urban Development, the Appalachian Regional Commission, and the Delta Regional Authority, selected 24 communities to participate in Local Foods, Local Places in 2017. In 2017, federal partners are investing \$810,000 in Local Foods, Local Places.

In Region 6 the Louisiana State University Agriculture Center in Tallulah will connect ongoing community efforts around physical fitness, access to healthy food and downtown revitalization. The Downtown Albuquerque Main Street Initiative in New Mexico, plans to transform a vacant building in a struggling

part of downtown into a community kitchen and local food hub to provide vocational opportunities for local farmers and food entrepreneurs, improve nutrition and food access for residents, and help attract investment to the area.

GOAL 3- THE RULE OF LAW AND PROCESS:

Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law.

OBJECTIVE 3.1-COMPLIANCE WITH THE LAW:

Enforce environmental laws to correct noncompliance and promote cleanup at contaminated sites.

**San Jacinto River Waste Pits Superfund Site**

EPA is working with the Department of Justice to issue special notice for negotiation of a consent decree for the response action and an administrative order on consent that will facilitate early commencement of the specific design for work at the site. EPA plans to meet with the responsible parties in early December.

On October 11, 2017, Administrator Pruitt signed the Record of Decision for this site calling for excavation and off-site disposal of dioxin wastes at a cost of about \$115 million. Negotiations with the responsible parties for the consent decree are expected to take six to 12 months. The design activities can take as long as another six to 12 months, and then work will start. The Region has requested a meeting with the potentially responsible parties to discuss early commencement of design so that it can be conducted while the consent decree negotiations are being pursued. A public meeting to discuss the Record of Decision and provide a site update is scheduled for December 4.

Following Hurricane Harvey, EPA conducted an assessment of the site to determine the extent of damage caused by the storm, and the potentially responsible parties found erosion of the river bottom adjacent to the temporary armored cap. The survey of the San Jacinto riverbed found erosion of the river bottom up to 12 feet deep near the cap. The total area of river bottom eroded in the vicinity of the cap was over 20,000 square feet. The stabilization work approved today includes placement of a geotextile fabric layer covered with at least three feet of rock with a median diameter of eight inches. EPA directed the potentially responsible parties to stabilize a 40-foot by 400-foot area adjacent to the east side of the cap to prevent future undermining of the armored cap. The temporary armored cap has not been damaged in this area.

On September 28, shortly after Hurricane Harvey, EPA received preliminary data from sediment samples collected by EPA's dive team from 14 areas at the site. Samples from one of the 14 areas confirmed the protective cap had been damaged and the underlying waste material was exposed. Repairs to add armored rock to the cap were completed shortly after the sampling was conducted. All repairs to the damaged cap from the storm are now complete. EPA directed the potentially responsible parties to collect additional samples near the damaged area, and sampling has also been completed. Six additional samples were collected and preliminary results did not show elevated levels of dioxins in nearby sediments.

The San Jacinto River Waste Pits Superfund Site is situated east of Houston, Texas. Pits were built in the mid-1960s along the banks of the San Jacinto River and used for disposal of pulp wastes containing

dioxins. The waste pits are partially submerged in the river due to regional subsidence. A temporary armored cap was completed in 2011 under an EPA order to prevent continuing releases and direct contact with the waste material.

**Petition to Withdraw Texas’s Federally Approved/Authorized Permitting Programs**

On January 11, 2016, the Environmental Defense Fund and Caddo Lake Institute filed a Petition for Administrative Action asking EPA to withdraw National Pollution Discharge Elimination System permitting authority under the Clean Water Act from Texas Commission on Environmental Quality and requesting that EPA find Texas’s New Source Review permitting program under the Clean Air Act substantially inadequate. There is no statutory or regulatory deadline to complete the informal investigation. At some point the petitioners may seek to have the Federal Court set a schedule for an EPA decision on the petitions.

The Petition alleges that amendments adopted by Texas in 2015 to the state’s contested case hearing process restrict public participation in the permitting process contrary to Texas’s federally approved/authorized permitting programs by 1) restricting the public’s ability to obtain judicial review of permitting decisions, 2) reducing opportunities for public participation by increasing the burden on permit opponents in a contested case hearing, and 3) providing inadequate resources for implementation and enforcement of the Clean Water Act and Clean Air Act.

The Petition and the revisions themselves also highlight a broader National Pollutant Discharge Elimination System, Title V, and New Source Review authorization issue. EPA based its 1998 authorization of the Texas Clean Water Act program upon a finding that participation in a contested case hearing was not a prerequisite to judicial review. Texas made the same assertion during EPA’s approval of Texas’s Title V and New Source Review programs under the Clean Air Act. EPA is working with the state to understand the meaning of recent state court decisions, as well as statements made by the Texas Attorney General, which may call into question the adequacy of public participation in the state’s programs. EPA has begun an informal investigation into the allegations in the Petition. The objective of this investigation, which is provided for under the Clean Water Act and EPA’s implementing regulations, is to gather enough information to reach a preliminary assessment as to whether cause exists to initiate formal withdrawal proceedings.

**State of New Mexico v. EPA, et. al. (Gold King Mine spill and Bonita Peaks Mining District Superfund Site in Colorado)**

The EPA is currently involved as a co-defendant in litigation and plans to engage in settlement discussions with the State of New Mexico and other affected governmental parties resulting from the 2015 Gold King Mine release into downstream waters. On August 5, 2015, EPA Region 8 and its contractors were investigating metals-laden and acid mine water leaking from the Gold King Mine near Silverton, Colorado. While excavating above an old adit, pressurized water leaked above and out of the mine tunnel, spilling approximately three million gallons of contaminated water into Cement Creek, a tributary of the Animas River. The plume of contaminated water travelled down the Animas River, into the San Juan River in New Mexico and eventually settled into Lake Powell in Utah.

On May 23, 2016, the State of New Mexico sued the EPA, its contractor, and Colorado mine owners in U.S. District Court. On August 16, 2016, the Navajo Nation also sued the EPA, its contractor, and

Colorado mine owners with similar allegations and claims against the EPA and co-defendants and, as a result, its suit was consolidated with New Mexico's suit. New Mexico's suit alleges the EPA and co-defendants are jointly and severally liable under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for New Mexico's past, present and future CERCLA response costs. The suit also seeks to compel the EPA under the Clean Water Act (CWA) to abate pollution from inactive and abandoned mines along the Upper Animas River Basin in Colorado that are discharging acid mine drainage water into New Mexico's waters. New Mexico has also threatened to amend its complaint to seek tort damages against the EPA. On February 13, 2017, the EPA filed a motion to dismiss both complaints on sovereign immunity grounds. The Court has not yet ruled on EPA's motion. EPA seeks to engage in settlement negotiations with New Mexico. New Mexico submitted a settlement demand letter in the summer of 2017. The Navajo Nation has rebuffed EPA's efforts to engage in settlement negotiations. The State of Utah has also threatened to sue the EPA for the spill.

In its settlement demand, New Mexico seeks a collaborative and holistic approach to CERCLA remedial efforts for the Bonita Peak Mining District Superfund Site, which is a newly designated Superfund site, within which lies the Gold King Mine. New Mexico also seeks the performance of short term response actions under CERCLA in water ways affected by the spill. In addition, New Mexico seeks funding for or the performance of long term monitoring of water ways affected by the spill and funding for other water projects within those waters affected the spill. Lastly, New Mexico seeks reimbursement of response and monitoring costs, some of which may overlap with funds appropriated under the Water Infrastructure Improvements for the Nation Act (WIIN Act). EPA Region 6 presumably may have a part or be involved in some or all of these efforts sought by New Mexico. EPA intends to respond to New Mexico's settlement demands (made in Summer of 2017) by December 18, 2017. It is hoped that a settlement with New Mexico will encourage and spur negotiations and a possible settlement with the State of Utah and the Navajo Nation.

#### OBJECTIVE 3.2-CREATE CONSISTENCY AND CERTAINTY:

Outline exactly what is expected of the regulated community to ensure good stewardship and positive environmental outcomes.

#### **EPA Regional Sustainability Environmental Sciences Research Program (RESES) Project**

Both solids and liquids from about 90 dairy farms are washing out of lagoons, directly into adjacent streams, creating water quality impairments in several parishes in Louisiana. These small farmers recognize this current condition is not acceptable and EPA is helping them find ecologically effective and economically viable options to update or replace outdated management lagoon systems.

As dairy waste overflows from the lagoons into nearby bodies of water, excess nutrients and fecal bacteria enter these surface waters, leading to impairment. Sediments may also contain heavy metals, pesticides and antibiotics.

Most of these lagoons were constructed over 20 years ago and were built to intercept and capture these dairy operation waste streams and runoff from the walk-up area in order to protect down gradient, downstream water quality. Through the course of many years these lagoons have filled with solids, thus reducing storage capacity. Many of them have fallen into disrepair and are overgrown with vegetation

and mature trees that further impede the proper functioning of these systems. The absence of lagoon dewatering and irrigation equipment has created a condition where most of these lagoons overflow and allow this waste to directly flow into adjacent surface water ways and thus move down gradient impacting the water quality of these receiving water bodies.

With the short supply of contractors attempting to rehabilitate the dairy lagoons, farmers are often subject to waiting years before any help arrives. EPA has also learned that several farmers have submitted applications to close down their operations, and others that have already shut down, have likely not been properly decommissioned.

EPA, Louisiana Department of Environmental Quality (LDEQ), Natural Resources Conservation Service (NRCS), Louisiana State University Ag Center (LSU), Louisiana Department of Health (LDH), Louisiana Department of Agriculture and Forestry (LDAF) are planning several workshops with dairy farmers to provide direct assistance.

**Macy's Retail Holdings, Inc.**

Over the next year, Macy's will develop a program to train an estimated 400 retailers in Oklahoma and Texas on how to comply with hazardous waste requirements. Live training events held in Oklahoma and Texas and will also be recorded to create a webinar that can be shared to Macy's locations nationwide. After completing the 11 third-party audits of its largest facilities, Macy's will share results with more than 620 locations outside the region with instructions to review the issues and address noncompliance. Macy's will also promote the training webinars and recorded sessions to appropriate personnel nationwide.

Based on the average rate of hazardous-waste generation at the 44 stores involved in the settlement, EPA estimates that Macy's may manage about 1.2 million pounds of hazardous waste nationwide per year. EPA announced a settlement with Macy's over violations of hazardous waste regulations. In addition to correcting violations, Macy's will also develop a program with the capacity to train 400 retailers in Oklahoma and Texas, and conduct third-party audits at 11 of its largest facilities within Texas, Oklahoma, Louisiana and New Mexico, among other required actions. The company paid a \$375,000 civil penalty within 30 days of the effective date of the settlement, and must comply with all other requirements within one year of September 26, 2017.

EPA found Macy's had violated the Resource Conservation and Recovery Act, the federal law that regulates hazardous and solid wastes, for several periods during 2012-2015. During these times, each Macy's store identified in the settlement generated thousands of pounds of hazardous waste to qualify as a small-quantity generator but failed to notify EPA and state authorities. Macy's also failed to meet the conditions for small-quantity generator status and did not complete appropriate manifests. Overall, Macy's generated more than 269,168 pounds of hazardous waste from 2012-2015 for the 44 locations identified in the settlement.

The Resource Conservation and Recovery Act, passed by Congress in 1976 gives EPA the authority to control hazardous waste from "cradle-to-grave." RCRA sets national goals for protecting human health and the environment from the potential hazards of waste disposal, conserving energy and natural resources, reducing the amount of waste generated, and ensuring wastes are managed in an environmentally sound manner.

1208 OBJECTIVE 3.3-PRIORITIZE ROBUST SCIENCE:

1209 Refocus the EPA’s robust research and scientific analysis to inform policy making.

1210 **Illinois River Multijurisdictional Nutrient Modeling Effort**

1211 The \$1.5 million modeling effort relies on two highly specialized computer models – a watershed and  
1212 lake model – and is designed to reproduce conditions within the watershed. While the watershed model  
1213 has been completed, the lake model met delays earlier this year and is delayed until April 2018.

1214 Pollution controls in this two-state jurisdiction have been controversial for many years. As the Attorney  
1215 General for Oklahoma, Scott Pruitt worked with his counterpart in Arkansas to reach agreement to study  
1216 the water quality of the Illinois River that crosses between the two states and has been enjoyed by  
1217 generations of Oklahomans and Arkansans. The Statement of Joint Principles provided for a best science  
1218 study using EPA-approved methods, with both states agreeing, for the first time, to be bound by the  
1219 outcome.

1220 Oklahoma and Arkansas agencies have provided detailed comments on the modeling efforts to date.  
1221 EPA regional staff have reviewed and modified the model calibrations in an effort to address  
1222 stakeholder concerns and continue to strive to achieve consensus among the principals as to the utility  
1223 of the watershed and lake models.

1224 EPA continues developing technically robust and scientifically defensible water quality models of the  
1225 Illinois River Watershed in northeast Oklahoma and northwest Arkansas. Once completed, the data can  
1226 be used to help derive Total Maximum Daily Loads for the watershed and reduce nutrient loadings in the  
1227 watershed. The watershed is currently impaired as a result of nutrient loadings from municipal  
1228 discharges and nonpoint sources (e.g., agricultural runoff).

1229 Since 2009, EPA has been funding, on behalf of our regulatory partners from both Oklahoma and  
1230 Arkansas, the development of an agreed-upon scientific model to use in developing Total Maximum  
1231 Daily Loads or other load-reduction approaches where needed. EPA plans to release the revised water  
1232 quality models for public review and comment.

1233 Some business sectors including the poultry industry is concerned that the modeling and possible  
1234 subsequent Total Maximum Daily Loads would adversely affect the land application of poultry litter in  
1235 the watershed and provide a target loading for nonpoint reductions.

1236 OBJECTIVE 3.4-STREAMLINE AND MODERNIZE:

1237 Issue permits more quickly and modernize our permitting and reporting systems.

1238

1239 **EPA/TCEQ NPDES Oversight Permitting Process Improvement Project**

1240

1241 The current process of exchanging, reviewing, and resolving permits may delay the final issuance of  
1242 Texas Pollutant Discharge Elimination System permits. On December 5-7, 2017, Region 6 and Texas  
1243 Commission on Environmental Quality participated in a process improvement workshop explore ways to  
1244 issue permits more quickly and reduce the current permit backlog.



1245

1246 The Texas Commission on Environmental Quality has one of the largest universes of National Pollutant  
1247 Discharge Elimination System permits, or Texas Pollutant Discharge Elimination System (TPDES), in the  
1248 nation. On average, EPA Region 6 reviews 170 draft Texas Pollutant Discharge Elimination System  
1249 permits each year.

1250

1251 **Treatment as a State Lean Project**

1252 Region 6 has created a Lean project team comprised of EPA Region 6 and tribal environmental staff  
1253 members working to reduce the time required for approval of tribal applications to implement water  
1254 quality standards programs.

1255 The Clean Water Act, Safe Drinking Water Act, and Clean Air Act emphasize the role of states in  
1256 protecting the environment and public health and allow EPA to authorize states to implement their own  
1257 programs in lieu of the federal program (referred to as program authorization). From 1986 to 1990,  
1258 Congress amended these three acts to authorize EPA to treat pueblos and tribal nations in a similar  
1259 manner as a state for purposes of program authorization.

1260 Under EPA's implementation of the Clean Water Act, a tribe may submit a request to EPA for Treatment  
1261 as a State status and a request for approval of its adopted water quality standards, either separately or  
1262 at the same time. Section 518 of the Clean Water Act lists the eligibility criteria EPA will use to approve  
1263 Treatment as a State status and to authorize Indian tribes to administer Clean Water Act programs.

1264 Region 6 currently has 13 pueblos and tribal nations that have achieved Treatment as a State status for  
1265 water quality standards, and 11 pueblos have federally approved water quality standards.

1266 The last four Treatment as a State applications for water quality standards have taken more than two  
1267 years to approve, and a current Clean Air Act grant Treatment as a State application is approaching two  
1268 and a half years for approval.

1269 **OBJECTIVE 3.5-IMPROVE EFFICIENCY AND EFFECTIVENESS:**

1270 Provide proper leadership and internal operations management to ensure that the Agency is fulfilling its  
1271 mission.

1272 **Lead Region for Information Technology**

1273 For Fiscal Years 2017 and 2018, Region 6 is serving as the Information Technology Lead Region. On a  
1274 two-year rotating basis, a regional office is designated by the Office of Environmental Information (OEI)  
1275 as the Information Technology (IT) Lead Region to support OEI in its implementation of the Agency's  
1276 information technology/information management priorities.

1277 The Lead Region for Information Technology is responsible for representing all EPA Regions in  
1278 discussions and decision-making processes, and for communicating the Agency's Information  
1279 Technology/Information Management Strategic Advisory Committee recommendations, decisions, and  
1280 implementation requirements to the other Regions.

A bi-weekly teleconference is held with the Agency's Chief Information officer, Deputy Regional Administrator (DRA), and the Region 6 Senior Information Officer to establish IT/IM priorities, review progress on initiatives, discuss related issues, and make decisions of Agency-wide significance. Cybersecurity and IT/IM budgeting issues are also considered. Decisions made in these meetings are subsequently communicated by Office of Environmental Information and the Lead Region through the governance structure.

The Lead Region system was established in 1984 to provide an organized, facilitative, and consistent mechanism for EPA HQ and the ten regional offices to interact together. The system enhances EPA's ability to protect human health and the environment and is at the forefront of HQ initiatives in soliciting regional input on Agency decisions, incentivizing participation, and leveraging effective communication.

#### **EPA Lab Study**

Region 6 has one of 6 regional laboratories that occupy space leased from private companies. The Houston Environmental Laboratory lease expiration date is June 30, 2020.

EPA has announced decisions not to renew developer-leased laboratories in Region 4 and 8 and consolidate in government-owned facilities. The four remaining labs' leases expire over the next few years and are currently being evaluated and the announced is expected in January 2018.

The laboratory is a full-service analytical laboratory providing routine and specialty environmental analytical services for air, soil, water, and drinking water samples.

Options for the future of the Houston Environmental Laboratory are currently being developed in collaboration with Office of Administration Resource Management. There is a great benefit of having the lab located in Houston due to the major Gulf Coast industrial presence and the ability to provide assistance during natural disasters that are common along the Gulf Coast. A recent example of this important function is the service it provided in responding to Hurricane Harvey.

Region 6 will need laboratory space for support of analytical services, and office/cube space for program personnel and contractors. There are 33 FTE assigned to our lab unit, 10 FTE from other business units and 10 contractors that support the facility with analytical services, security, records management, IT support and administrative assistance. Additional considerations include provision for a Hazardous Materials Storage area, loading dock, and parking for the lab's fleet vehicles, trailers, and mobile labs, all contained within a secure fence. We estimate we will need 10,000 square feet for personnel/program/mission support (this includes circulation) and an additional 16,000 square feet for the laboratory functions.

In December 2012, EPA began a study of its laboratory enterprise to identify opportunities to increase efficiency and effectiveness while ensuring the agency's ability to continue to provide the preeminent research, science, and technical support critical to advance our mission.